BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KAREN ANN DUENAS a.k.a. KAREN ANN CORTESE a.k.a. KAREN ANN GHANE 1503 Bancroft Court San Leandro, CA 94578

Registered Nurse License No. 391701

Respondent

Case No. 2012-642

OAH No. 2012070026

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 26, 2013.

IT IS SO ORDERED March 29, 2013.

Raymond Mallel, President

Board of Registered Nursing

Department of Consumer Affairs

State of California

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1	KAMALA D. HARRIS Attorney General of California	•			
2	DIANN SOKOLOFF	. •	• :		_
	Supervising Deputy Attorney General		· · · · · · · · · · · · · · · · · · ·		·
3	KIM M. SETTLES Deputy Attorney General				
4	State Bar No. 116945			•	•
5	1515 Clay Street, 20th Floor P.O. Box 70550			. •	
	Oakland, CA 94612-0550				
6	Telephone: (510) 622-2138 Facsimile: (510) 622-2270	•			;
7	Attorneys for Complainant	·			
. 8	BEEU	DE THE	FILE		
	BOARD OF RECISTERED NURSING				
9	DEPARTMENT OF C	CONSUMER AI CALIFORNIA	FAIRS UD Z	2012	
10	SIAILOI		Office of Administra	five Mearing	S
11	In the Matter of the Acquestion Against.	Case No. 2012-	600		
	In the Matter of the Accusation Against:		•	•	
12	KAREN ANN DUENAS, aka KAREN ANN CORTESE, aka KAREN ANN GHANE	OAH Case No.	2012070026		
13	1503 Bancroft Court		SETTLEMEN		
14	San Leandro, CA 94578 Registered Nurse License No. 391701	DISCIPLINAI REPROVAL	RY ORDER FO	R PUBLI	C _.
	Registered Pull'se License 110, 391/01	REIROVAL			
15	Respondent.	Bus. & Prof. 6	Code § 495]		
,16					
17	IT IS HEREBY STIPULATED AND AGE	REED by and bet	ween the parties	to the abo	ve-
·, •	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-				
18	entitled proceedings that the following matters are true:				
19.	PAR	TIES			
20	1. LOUISE R. BAILEY, M.Ed., RN (Complainant) is the Executive Officer of the				
21	Board of Registered Nursing. She brought this action solely in her official capacity and is				
2.2	represented in this matter by Kamala D. Harris, Attorney General of the State of California, by			oy	
23	Kim M. Settles, Deputy Attorney General.				
24	2. Respondent Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann Ghane				
25	(Respondent) is representing herself in this proceeding and has chosen not to exercise her right to			ht to	
. 26	bë represented by counsel.				
27	3. On or about August 31, 1985, the Board of Registered Nursing, Department of				
2-8 :	Consumer Affairs issued Registered Nurse License Number 391701 to Karen Ann Duenas, aka			ka	
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STIPULATED SETTLEMENT

Karen Ann Cortese, aka Karen Ann Ghane. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire January 31,, 2013, unless renewed.

JURISDICTION

4. Accusation No. 2012-692 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 9, 2012. A copy of Accusation No. 2012-692 is attached as exhibit A and incorporated here by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2012-692. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-692.
- 9. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Public Reprimand as set forth in the Board of Registered Nursing (Board)'s Disciplinary Order below.

CONTINGENCY

- Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 391701 issued to Respondent Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann Ghane (Respondent)

shall, by way of letter from the Board's Executive Officer; be publicly reproved. The letter shall be in the same form as the letter attached as exhibit B to this stipulation, IT IS FURTHER ORDERED that Respondent shall pay \$1,494.50 to the Board for its costs 3 associated with the investigation and enforcement of this matter. Respondent shall be permitted 4 to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board 5 costs as ordered, Respondent shall not be allowed to renew her Registered Nursing License until б. 7 Respondent pays costs in full. ACCEPTANCE 8. I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reproval. 9 I understand the stipulation and the effect it will have on my Registered Nurse License. I enter 10 into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, 11 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of 12 Registered Nursing. 13 8/24/12 DATED: 14 KAREN ANN DUENAS, aka KAREN ANN 15 CORTESE, aka KAREN ANN GHANE Respondent 16 17 **ENDORSEMENT** 18 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval are hereby 19 respectfully submitted for consideration by the Board of Registered Nursing of the Department of 20 Consumer Affairs. 21 8/24/12 Dated: Respectfully submitted, 22 Kamala D. Harris Attorney General of California 23 DIANN SOKOLOFF Supervising Deputy Attorney General 24 25 KIM M. SETTLES. 26 Deputy Attorney General Attorneys for Complainant 27 SF2012900751 28 90257057.doc

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1	KAMALA D. HARRIS			
2	Attorney General of California DIANN SOKOLOFF			
3	Supervising Deputy Attorney General KIM M. SETTLES			
4	Deputy Attorney General State Bar No. 116945			
5	1515 Clay Street, 20th Floor P.O. Box 70550			
6	Oakland, CA 94612-0550 Telephone: (510) 622-2138			
7	Facsimile: (510) 622-2270 Attorneys for Complainant			
8	BEFORE THE			
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
10				
11	In the Matter of the Accusation Against:	Case No. 2012 - 692		
12	KAREN ANN DUENAS, aka KAREN ANN CORTESE, aka KAREN ANN GHANE	ACCUSATION		
13	1503 Bancroft Court			
14	San Leandro, CA 94578 Registered Nurse License No. 391701			
15	Respondent.			
16				
17	Complainant alleges:			
18	<u>PARTIES</u>			
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her			
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department			
21	of Consumer Affairs.			
22	2. On or about August 31, 1985, the Board of Registered Nursing issued Registered			
23	Nurse License Number 391701 to Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann			
24	Ghane (Respondent). The Registered Nurse License was in full force and effect at all times			
25	relevant to the charges brought in this Accusation and will expire on January 31, 2013, unless			
26	renewed.			
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board),
 Department of Consumer Affairs, under the authority of the following laws. All section
 references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."
- 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

- 10. <u>Acetaminophen</u> is used to treat mild to moderate pain. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(G) and a dangerous drug pursuant to Business and Professions Code section 4022.
- 11. <u>Meloxicam</u> (brand name Mobic) is used to relieve pain, tenderness, swelling, and stiffness caused by arthritis. It is a dangerous drug pursuant to Business and Professions Code section 4022.
- 12. <u>Metroprolol</u> (brand name Lopressor) is used to treat high blood pressure and angina. It is a dangerous drug pursuant to Business and Professions Code section 4022.
- 13. <u>Zolpidem</u> is used to treat insomnia. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11056, subdivision (g) and a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

14. Respondent has subjected her license to disciplinary action under sections 2761, subdivision (f) and 490, in that on or about August 11, 2011, she was convicted by the court on her plea of no contest of a violation of Vehicle Code sections 23103 (reckless driving) in Alameda County Superior Cort, Case No. 572400, entitled *People v. Karen Cortese-Duenas*. The circumstances of the crime are that on or about July 2, 2011, Respondent drove a vehicle while under the influence of Acetaminophen, Meloxicam, Metroprolol, and Zolpidem. Respondent was sentenced to ninety days in jail, two years probation, and required to pay \$993.00 in fines.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Use of Drugs)

15. Respondent has subjected her license to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision (b), in that she drove a vehicle while under the influence of drugs, as set forth in paragraph 14, above.

THIRD CAUSE FOR DISCIPLINE

(Offense Involving Use of Drugs)

16. Respondent has subjected her license to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (c), by virtue of the conviction set forth in paragraph 14, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 391701, issued to Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann Ghane;
- 2. Ordering Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann Ghane to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: May 9, 2012

LOUISE R. BAILEY, M.ED., RN

Interim Executive Officer Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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Exhibit B

Letter of Public Reproval in Accusation No. 2012-692



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 I www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



-March-29,-2013

Karen Ann Duenas 1503 Bancroft Court San Leandro, CA 94578

RE: LETTER OF PUBLIC REPROVAL

In the Matter of the Accusation Against: Karen Ann Duenas, aka Karen Ann Cortese, aka Karen Ann Ghane

Board of Registered Nursing Case No. 2012-692; OAH Case No. 2012070026

Dear Karen Ann Duenas:

On May 9, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California ("Board"), filed an Accusation against you. The Accusation alleged that cause exists to discipline your Registered Nurse License under Business and Professions Code ("Code") sections 490 and 2761, subdivision (f), in that you were convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse. On August 11, 2011, you were convicted of violating Vehicle Code section 23103 (reckless driving). The factual circumstances surrounding the crime are that on or about July 2, 2011 you drove a vehicle while under the influence of Acetaminophen, Meloxicam, Metroprolol, and Zolpidem. The Accusation also alleged that cause exists for discipline of your license as follows: (1) unprofessional conduct/use of drugs (Code section 2761, subdivision (a), as defined in Code section 2762, subdivision (b)), and (2) conviction of a crime involving use of drugs (Code section 2761, subdivision (a), as defined in Code section 2762, subdivision (c).

The Board has taken into consideration the following mitigating circumstances: (1) You have successfully completed twelve months of your twenty-four month criminal probation, with the exception of failure to make timely monthly payments for fines and attorney fees, due to financial hardship; (2) You submitted strong letters of support from coworkers and patients; (3) You submitted a favorable, recent employment evaluation; (4) You submitted a letter from your husband stating that he pressured you into picking him up on the night of the arrest, even after you refused to drive because you had already taken your nightly medications. Your husband also stated that he continued to pressure you to pick him up because he believed that he was in a dangerous and unfamiliar area and was afraid for his life. Several of the individuals who wrote character letters on your behalf indicated awareness of your conviction for driving under the influence of drugs. Also considering that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a registered nurse, the Board has decided that the charges warrant a public reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

LOUISE R. BAILEY, M.Ed., R.N.

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California